THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.20002 OF 2007

DATED: 20-09-2007

BETWEEN

The L.I.C. Employees' Mutually Aided
Co-operative House Building Society
Limited, Retibowli, Mehadipatnam,
Hyderabad and another.

...PETITIONERS

AND

The District Collector,
Hyderabad and another.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioners as well as the Learned Government Pleader appearing for the respondents.

2. Petitioners seek a Writ of Mandamus to declare the action of the respondents in not issuing No Objection Certificate (NOC) to the first petitioner/house building society in respect of the land admeasuring 10,827.08 sq. meters in Sy.No.20 (new) of Yellareddyguda, Hyderabad even after receiving Urban Land Ceiling clearance by letter dated 09.02.2007 as illegal and arbitrary.

3. Learned counsel for the petitioners submits that the petitioner-society made an application dated 12.07.2006 before the District Collector, Hyderabad requesting for NOC to make constructions by the society and its

members. Pursuant to the said representation the District Collector issued Memo No.N2/3119/06 dated 26.10.2006 informing the first petitioner to approach the Special Officer & Competent Authority, Urban Land Ceilings, Hyderabad, and obtain ULC clearance in respect of the said land in question and submit the same to the Office of the Collector, so as to take further action in the matter. Pursuant to the said Memo the petitioner-society made a representation before the Special Officer & Competent Authority, Urban Land Ceilings, dated 17.11.2006 seeking ULC clearance and the said subject matter of the land was verified through enquiry officer and after submission of enquiry report, the Special Officer & Competent Authority, Urban Land Ceilings, by his letter No.E2/4261/NOC/2006 dated 09.02.2007 stated that there is no objection for construction/development of the said land from the ULC point of view as the said land was already exempted by the Government in G.O.Ms.No.179 (UC-II) Department dated 27.01.1979.

4. It is just and proper to extract the whole of the letter dated 09.02.2007 which depicts the factual aspects and uncontroverted facts.

"GOVERNMENT OF ANDHRA PRADESH
(REVENUE DEPARTMENT)

Office of the
Special Officer & Competent Authority,
Urban Land Ceiling, Hyderabad.

Lr.No.E2/4261/NOC/2006 Dated:- 9-2-2007

To,
The Collector,
Hyderabad District.

Sir,

Sub:- U.L. (C&R) Act, 1976 – H.U.A – Hyderabad District – Khairtabad Mandal Yellareddyguda Village – T.S.No.4/2, Block-P, Ward No.6, Extent 10827-08 Sq.Mtrs – Request for issue of NOC – reg.

Ref:- 1) A/o Secretary L.I.C employees Co-op House Building Society date 17-11-2006.
2) Verification report by E.O. date 1-12-2006.
3) T.O.Lr.No.Even date 11-12-2006.
4) Govt Memo No.58571/UC-II (3)/06-I dated.

* * *

I invite kind attention to the reference cited and inform that the secretary L.I.C.Employees Co-operative House Building Society filed application for issue of No Objection Certificate in respect of land to an extent of 16000 Sq.Yards in Sy.No.20 of Yellareddyguda Village, Khairthabad Mandal, Hyderabad District. The matter got enquired through Enquiry Officer of this office.

The enquiry reveals that the L.I.C Employees Co-operative House Building Society Ltd entered into an agreement for purchase of land admeasuring 16000 Sq.Yards in Sy.No.20 (New) situated at Yellareddyguda Village from its owners Sri M.A.Gaffar and other on 28-3-1974.

The Government vide G.O.Ms.No.179 Rev (UC-II) Dept dated 27-1-1979 granted exemption with condition to complete the sale instructions as per the terms of agreement entered into prior to 28-1-1976. But owners did not come forward to register the land in their favour. The matter went to court in O.S.No.602/79, which was renumbered as O.S.No.311/80 for specific performance of the agreement. The said suit is decided in their favour. The society filed an E.P.No.14/97 for execution of the decree before the said court. Aggrieved by the orders in the above case the owners filed appeals before division bench which were also dismissed at admission stage in September, 2000. Aggrieved by the judgment of High Court the owners filed appeals before the Supreme Court of India in 2001, which were dismissed on 12-1-2006.

Further the secretary of the Society stated during the enquiry that before filing appeals in Supreme Court of India they moved to City Civil Court for registration of sale deed by the court and the court executed the registered deed in their favour on 27-8-2001. Consequently on issue of Supreme Court order the society has approached the City Civil Court for delivery of possession on 30-6-2006. The Court issued a warrant to depute a bailiff to deliver possession to the said society. The bailiff delivered possession to the society on 6-7-2006.

In order to confirm the existence of exemption granted by the Government vide G.O.Ms.No.179 Rev (UC-II) Dept dated
27-1-1979 exempting 13,378 Sq.Mtrs in Sy.No.20 of Yellareddyguda Village it was requested the Government vide this office letter 3rd cited. Accordingly the Government has conformed that the above said G.O is in force vide Government Memo No.58571/UC-II(3)/06-1, dated 22-1-2007, in the ref 4th cited.

In view of the above there is no objection for construction/development to

an extent of 10,827.08 Sq.Mtrs in T.S.No.4/2, Block-P, Ward No.6 of Yellareddyguda Village from U.L.C point of view.

Yours faithfully,

Special Officer & Competent Authority,
Urban Land Ceiling, Hyderabad.

Copy to Secretary,
LIC Employees Co-op House Building Society,
R/o.12-2-784/A/1 Reti Bowli Mehdipatnam, Hyderabad."

5. Thereafter, the petitioners also made a representation on 09.08. 2007 before the District Collector informing the clearance granted by the ULC on 09.02.2007 as well as the G.O. exempting the said land. The grievance of the petitioners is that though there is no objection from any corner; more so, when the land is exempted by the Government under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 and NOC has been granted by the ULC authorities, there is no justification on the part of the first respondent in sitting over the matter and not issuing NOC.

6. Having regard to the facts and circumstances of the case, the District Collector, Hyderabad is directed to consider and dispose the application of the petitioner-society dated 09.08.2007, keeping in view the no objection letter of the Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad and exemption orders of the Government, as expeditiously as possible within a period of three weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

September 20, 2007
Note: Furnish C.C. of the order by 22.09.2007.
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DSK